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S.B. 310
133rd General Assembly

Fiscal Note & Local Impact Statement

[Click here for S.B. 310's Bill Analysis](#)

Version: As Recommended by Conference Committee

Primary Sponsor: Sen. Dolan

Local Impact Statement Procedure Required: No

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Overview

The bill makes various changes affecting the operation of state programs, including making capital appropriations, appropriating remaining federal funds for COVID-19 relief, increasing Medicaid appropriations, making tax policy changes, and others.

The fiscal note first highlights the appropriations, and then has a detailed analysis that is organized into the following sections: (1) capital appropriations for the FY 2021-FY 2022 biennium, (2) appropriation of federal funds for COVID-19 relief, (3) health and human services and Medicaid provisions, (4) a tax provision, (5) education provisions, (6) general government provisions, and (7) emergency provision.

Appropriations

- The bill makes capital appropriations totaling \$2.13 billion for the FY 2021-FY 2022 biennium, and authorizes about \$1.75 billion in new debt.
- The bill appropriates any unexpended and unencumbered cash remaining in the Coronavirus Relief Fund (Fund 5CV1) to Fund 5CV1 appropriation item 042621, COVID Response Multiple Agencies.
- The bill makes numerous Medicaid appropriation changes due to the enhanced federal medical assistance percentage enacted as a result of the COVID-19 pandemic. The changes result in a total increase of \$3.52 billion in FY 2021 and affect several line items.
- The bill increases Medicaid appropriations by a total of \$700.0 million in FY 2021 (\$525.0 million to Federal Fund 3F00 line item 651623, Medicaid Services – Federal and \$175.0 million to state Dedicated Purpose Fund 5GF0 appropriation line item 651656, Medicaid Services – Hospital Upper Payment Limit).

- The bill appropriates \$80.0 million in FY 2021 to Federal Fund 3A40 appropriation line item 653654, Medicaid Services, under the Ohio Department of Developmental Disabilities.
- The bill increases FY 2021 expenditures from Fund 5VSO line item 200604, Student Wellness and Success, by up to \$8.1 million by distributing any remaining funds in this item, after statutory formula payments have been made, according to a methodology to be developed by the Ohio Department of Education that will exhaust its appropriation.
- The bill appropriates \$3.0 million in FY 2021 from lottery profits to fund various education studies.

Detailed Analysis

Capital appropriations

The bill makes capital appropriations totaling \$2.13 billion for the biennium ending June 30, 2022, (FY 2021 and FY 2022) and authorizes about \$1.75 billion in new debt. [LSC's Capital Item Analysis](#) provides detailed information related to capital appropriations. These new appropriations are in addition to the \$555.0 million in total capital appropriations made in S.B. 4 of the 133rd General Assembly that also authorized \$525.0 million in new debt. Together, S.B. 4 and the bill provide a total of approximately \$2.68 billion in new capital appropriations for the biennium ending June 30, 2022, and authorize new debt totaling \$2.28 billion.

In addition to the new capital appropriations, the bill makes the following capital project-related changes:

- Permits the city of Hilliard to use money distributed from the Parks and Recreation Improvement Fund (Fund 7035) for the Grener Property Recreational Facility under H.B. 529 of the 132nd General Assembly to alternatively use the money for the Father Rodric J. DiPietro Park Improvements Project.
- Permits the Attorney General to enter into lease-purchase agreements to finance the Attorney General New Collection System. Requires the Director of Budget and Management to issue obligations with proceeds up to \$26 million, at the request of the Attorney General, to finance the system.
- Amends Sections 221.13 and 223.15 of H.B. 481 of the 133rd General Assembly to modify a few projects funded with reappropriations from appropriation item C58001, Community Assistance Projects, under the Department of Mental Health and Addiction Services (MHA) and to add a project funded with reappropriations from appropriation item C725E2, Local Parks, Recreation, and Conservation Projects, under the Department of Natural Resources (DNR). Modifications under MHA include eliminating a \$450,000 reappropriation for Tri-County One Wellness Place Troy Facility and a \$50,000 one for the Child Focus Opiate Addiction Supervised Visitation Facility and Batavia and redirecting a \$500,000 project from the Lorain County Recovery One Center to the Road to Hope House, Inc. Under DNR, the bill adds a \$50,000 earmark for the Kelley Nature Preserve Boat Ramp.

Appropriation of federal funds for COVID-19 relief

The bill appropriates any unexpended or unencumbered cash in the Coronavirus Relief Fund (Fund 5CV1) for FY 2021 appropriation item 042621, COVID Response Multiple Agencies, for expenses incurred related to the coronavirus pandemic on or after March 1, 2020. The authority does not apply to cash received by the state and deposited into Fund 5CV1 as a result of acts of the U.S. Congress made after November 1, 2020.

The bill also amends Section 27 of H.B. 481 (as subsequently amended) to permit, with Controlling Board approval, the Director of the Office of Budget and Management (OBM) to extend certain deadlines related to previously distributed coronavirus relief funds. Continuing law prohibits a political subdivision from using money in its local coronavirus relief fund for expenses incurred after December 30, 2020. The fiscal officer of each subdivision must pay the unexpended balance of money to the state treasury by February 1, 2021. The amendment creates legal authority for a possible extension of these two dates.

This provision applies to the \$1.175 billion already appropriated during the 133rd General Assembly. This money originated from the Coronavirus Aid, Relief, and Economic Security (CARES) Act that was passed by Congress and signed into law on March 27, 2020. Use of the money is limited by the CARES Act, to costs necessitated by the COVID-19 public health emergency, that were not accounted for in budgets as of March 27, 2020, and that are incurred between March 1 and December 30, 2020.

Health and human services and Medicaid provisions

Department of Medicaid appropriations

The bill increases Medicaid appropriations by a total of \$700.0 million in FY 2021, which breaks down by each impacted line item as follows: (1) increases state Dedicated Purpose Fund 5GF0 line item 651656, Medicaid Services – Hospital Upper Payment Limit, by \$175.0 million, and (2) increases Federal Fund 3F00 appropriation line item 651623, Medicaid Services – Federal, by \$525.0 million.

Ohio Department of Developmental Disabilities appropriation

The bill appropriates \$80 million to Federal Fund 3A40 appropriation line item 653654, Medicaid Services, under the Ohio Department of Developmental Disabilities.

Medicaid appropriation changes due to increased FMAP

The bill increases Medicaid appropriations by a total of \$3.52 billion in FY 2021, due to the enhanced federal medical assistance percentage (eFMAP) enacted as a result of the COVID-19 pandemic. This total breaks down by each impacted line item as follows: (1) increases GRF line item 651525, Medicaid Health Care Services, by \$1.04 billion (about \$566.4 million decrease in state share; \$1.60 billion increase in federal share), (2) increase Federal Fund 3F00 line item 651623, Medicaid Services – Federal, by \$2.60 billion, (3) increase in Dedicated Purpose Fund 5TNO line item 651684, Medicaid Services – HIC Fee, by \$200.0 million, (4) decrease in GRF line item 651526, Medicare Part D, by \$136.9 million, and (5) decrease in Dedicated Purpose Fund 5DLO line item 651639, Medicaid Services – Recoveries, by \$180.0 million.

Kinship Support Program

The bill creates the Kinship Support Program (KSP) to provide a payment of \$10.20 per child, per day to kinship caregivers that lack foster home certification and have a child placed with them. KSP benefits will be available for a period of nine months for children placed before the bill's effective date and for those placed during the nine months following the bill's effective date; benefits will be available for a period of six months following the nine-month period after the bill's effective date. Payments can continue until the child is no longer in the care of the kinship caregiver, the caregiver receives a foster home certification, or the time period for benefits elapses. The Ohio Department of Job and Family Services (ODJFS) must increase the payment amount on January 1, 2022, and on the first day of each January thereafter by the cost-of-living adjustment made in the immediately preceding December. ODJFS will experience an increase in costs to make payments. However, the bill states that ODJFS must coordinate and administer the program to the extent funds are appropriated and allocated for this purpose. ODJFS may also experience administrative costs to promulgate rules for this program. Kinship caregivers who receive foster home certification will be eligible to receive foster care maintenance payments equal to the custodial agency rate as determined by the certifying agency.

Temporary physician assistant and advanced practice nurse supervision

The bill allows until May 1, 2021, the following to occur with regards to specified health professionals employed by or under contract with a hospital or other health care facility: physician assistants to practice under a physician or podiatrist without a supervision agreement, and certified nurse-midwives, clinical nurse specialists, or certified nurse practitioners to practice under a physician or podiatrist without a standard of care arrangement as long as the physician or podiatrist collaborates with the nurse. The bill suspends certain provisions of existing law to the extent necessary to implement these provisions. These changes could result in an increase in costs for the Board of Nursing and State Medical Board. These costs could include addressing consumer or licensee questions or responding to any complaints.

Temporary respiratory care professional authority

The bill allows until May 1, 2021, a respiratory care professional (RCP) to direct the practice of a licensed practical nurse (LPN). These changes could result in an increase in costs for the State Medical Board (which regulates RCP licensees) and the Board of Nursing (which regulates LPN licensees). These costs could include addressing consumer or licensee questions or responding to any complaints.

Temporary licenses for inactive health care professionals

The bill allows until May 1, 2021, a nurse, pharmacist, physician assistant (PA), physician, podiatrist, respiratory therapist, or emergency medical technician (EMT) whose license is expired or inactive, including due to retirement, to practice under a temporary license without having to reinstate or restore the license. These changes could result in an increase in costs for the Board of Nursing (which regulates nurse licensees), the Board of Pharmacy (which regulates pharmacist licensees), the State Medical Board (which regulates PA, physician, podiatrist, and respiratory therapist licensees), and the State Board of Emergency Medical, Fire, and Transportation Services (which regulates EMTs). These costs could include addressing

consumer or licensee questions or responding to any complaints. Licensees who previously had their license suspended or revoked are not eligible to practice under this temporary license.

COVID-19 tests administered by emergency medical technicians

The bill permits, until May 1, 2021, a basic, intermediate, or paramedic level emergency medical technician, who has been properly trained, to administer a test for COVID-19 and to collect and label test specimens. This provision has no direct fiscal effect on the state or its political subdivisions.

Tax provision

Cuyahoga County lodging tax

The bill allows the Cuyahoga County Commissioners and the Mayor of Cleveland to amend an agreement, without the approval of the mayors of the other municipal corporations in that county, related to the use of certain special lodging tax revenue. The bill permits them to amend the agreement to use such revenue for paying for costs of promoting or supporting tourism or of tourism-related programs.

Under continuing law, the Cuyahoga County Commissioners are authorized to impose up to a 2% special lodging tax to fund capital or operating costs of a convention center. Revenues from the tax may be used for other capital improvements if the county and the Mayor of Cleveland execute an agreement to that effect at the time that tax is levied or increased, and the mayors of the majority of the other municipalities in the county approve.

This provision allows more flexibility regarding the use of these Cuyahoga County lodging tax revenues, but has no other fiscal effect on Cuyahoga County, the state, or any other political subdivision.

Education provisions

Education studies

The bill requires several state agencies, primarily the Ohio Department of Education, to conduct or consult on nine education-related studies, which must be completed by December 31, 2022. The bill appropriates \$3.0 million in FY 2021 from lottery profits in new line item 200611, Education Studies, to pay for the required studies and two authorized under current law (one concerning economically disadvantaged students and the other concerning preschool education) that are moved from codified law to uncodified law.

These newly required studies include creation of an inventory of line items that fund services to children; evaluation of special education categories, funding, services, and costs; review of the funding reporting protocols and requirements for gifted services; an evaluation of educational service centers; an evaluation of English learner funding and required services; a study of the cost to educate e-school students; an evaluation of the cost of operating community schools; and a study of the transportation of community school and nonpublic school students.

Educational Choice Scholarship Program application window

The bill requires the priority application period for performance-based Educational Choice scholarships for the 2021-2022 school year to open on March 2, 2021, instead of

February 1, 2021, as under law effective prior to the passage of S.B. 89 of the 133rd General Assembly (S.B. 89 includes a similar provision that opens the application period on March 1, 2021, but S.B. 89 does not include an emergency clause). The provision is included in the bill's emergency clause to allow it to take immediate effect, which ensures that the revised list of designated schools enacted under S.B. 89 takes effect before the application window opens.

Student activity program spending limitation

The bill provides school districts with flexibility in spending operating funds for the 2019-2020 and 2020-2021 school years by lifting, for those school years only, a requirement that a district spend no more than 0.5% of its annual operating budget on student activity programs.

Holocaust and Genocide Memorial and Education Commission

The bill creates the Holocaust and Genocide Memorial and Education Commission as a new stand-alone state agency. The Commission's day-to-day operations will be handled by an office consisting of a director appointed by the Commission, and any additional employees the Director deems necessary to carry out the duties of the office. Under the bill, additional employees require the Commission's approval and serve at the pleasure of the Director.

The operating costs of the Commission will likely be supported by the GRF and may be several hundred thousand dollars annually. This amount is comparable to such costs for the Commission on Hispanic-Latino Affairs, upon whose statute this section of the bill is modeled and which currently employs a staff of three full-time permanent employees and one intermittent part-time employee. The bill does not appropriate funds for the Holocaust and Genocide Memorial and Education Commission's operations.

The Commission's governing authority consists of 15 members. The Commission must meet at least six times per calendar year. The Commission's members will serve without compensation but are to be reimbursed for expenses incurred in the performance of their duties.

Student Wellness and Success funds payments

The bill increases FY 2021 expenditures from Dedicated Purpose Fund Group Fund 5VS0 appropriation line item 200604, Student Wellness and Success, by up to \$8.1 million by requiring any remaining Student Wellness and Success funds, after payments for FY 2021 under the current law statutory formulas have been made, to be distributed according to a methodology developed by the Ohio Department of Education (ODE) in consultation with the Office of Budget and Management (OBM). H.B. 166 of the 133rd General Assembly appropriated \$400 million for the Student Wellness and Success initiative for FY 2021. However, payments under the current law statutory formula are slated to total approximately \$391.9 million, resulting in \$8.1 million that would lapse under current law. Under the bill, this remaining amount will be distributed according to the methodology developed by ODE and OBM in order to exhaust the appropriation.

Student Wellness and Success funds payments are supported by transfers from the GRF to Fund 5VS0 and are for initiatives designed to support the needs of the whole child, including mental health services, physical health care services, mentoring programs, and family engagement and support services, among others. Under current law, funding is distributed

directly to school districts, joint vocational school districts (JVSDs), community schools, and STEM schools based on the number of students the district or school educates. School districts are allocated per-pupil funding according to a sliding scale based on federal census poverty data.¹ Payments to JVSDs, site-based community schools, and STEM schools are based on the per-pupil amount for each student's resident school district. Every school district, JVSD, community school, and STEM school is guaranteed to receive a minimum of \$36,000 in FY 2021. E-schools receive a flat amount equal to the minimum for traditional districts and JVSDs. Additionally, Student Wellness and Success enhancement funding is provided for school districts, JVSDs, community schools, and STEM schools that received supplemental targeted assistance funding for FY 2019.²

General government provisions

Ohio Department of Transportation – Maritime Assistance Program grant eligibility

The bill expands which port authorities may apply for grants under the Ohio Maritime Assistance Program by specifying that a port authority with jurisdiction within (rather than only located within) certain federally qualified opportunity zones may apply for the program. Furthermore, the bill eliminates the requirement that the Ohio Department of Transportation (ODOT) must adopt rules in order to govern the program. The program was created under H.B. 166 of the 133rd General Assembly, with total funding of \$23 million for grants in the FY 2020-FY 2021 biennium. All available funding for the biennium was allocated by November 2020. Therefore, the adjustments to program terms in this bill will depend on any future appropriations for the program in FY 2022 and onward.

Fireworks license moratorium

The bill extends, by one year until December 31, 2021, a moratorium on the issuance of new, and geographic transfer of existing, fireworks manufacturer and wholesaler licenses. If the moratorium were to expire on December 31, 2020, as under current law, the State Fire Marshal could begin issuing new licenses. The fees are \$2,750 and are deposited into the State Fire Marshal Fund (Fund 5460). Currently, there are six licensed manufacturers and 44 licensed wholesalers.

Emergency provision

S.B. 310 declares itself an emergency measure; therefore, it goes into immediate effect upon its enactment.

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¹ Districts are divided into five groups (quintiles) based on the percentage of the district's population under age 18 with a family income below 185% of federal poverty guidelines. The per-pupil amounts for each quintile range from \$30 to \$360 per pupil in FY 2021.

² Enhancement funds are calculated based on a per-pupil amount of \$75 in FY 2021, which is scaled to provide more funding to districts with higher concentrations of poverty.